

View

Administering justice

THE tension between the Muslim and Tamil communities in Mannar which ignited last month has faded into memory, but a report by a citizen's commission into the incident makes for interesting reading and shows the perception of discrimination and negligence by the local administration that led to the clashes.

The Citizens' Commission on the Expulsion of Muslims from the Northern Province by the LTTE went on a fact-finding visit to Mannar earlier this month. In their subsequent report they point out that there were many reasons for the clashes and how ethnic tensions have been fanned by an irresponsible administration that failed to act swiftly to solve the people's grievances.

In their recommendations, the commission calls on authorities to inquire into the status of the civilians who have been charged. Many seem to have been innocent bystanders and their families continue to be badly affected by their arrest or absence.

The report also points out there is an urgent need to investigate what factual basis if any exists to support Muslims' perceptions of discrimination at the institutional level in Mannar and other places to which they are returning. The local administration needs to be sensitive to and prioritise finding solutions for the many such disputes over land and livelihoods that are emerging in areas to which northern Muslims are returning.

There is an urgent need for more sustained civil society engagement with the returning Muslim community and the Tamil communities in the north that are compelled to make adjustments due to Muslim return. The above case illustrates the urgency in Mannar. But this is sure to be the case in other areas to which Muslims are returning as well.

There is a need for greater information collection and reporting of the situation of northern Muslim return. This information must be shared with concerned actors and stakeholders both in the north and outside. There is an urgent necessity to establish a mechanism comprising of civil society representatives, community elders, professionals and religious leaders who are able to intervene with relevant administrative officials to act to prevent potential conflicts and tensions and also offer recommendations to resolve civil disputes and other tensions amicably and without delay.

Justice Minister Rauff Hakeem has also admitted these challenges in resolving land and livelihood disputes in newly-resettled areas. In fact it was reported that the Justice Ministry plans to amend the law so that prescriptive rights are not applicable for the time the conflict lasted.

Similarly, the Lessons Learnt and Reconciliation Commission (LLRC) has recommended that a Land Commission be established to iron out resettlement grievances. Such measures, while laudable, could take many more months or years to accomplish. Time is of the essence when the roof over a person's head or a meal on the table is on the line. Newly-resettled people as well as those that were already in those areas need swift, fair and empathic solutions to their problems.

Regional civil administrations need to be the providers of these solutions. If they do not, the result will be the perception of discrimination that will result in clashes as what was witnessed in Mannar. After nearly three decades of war, Sri Lanka simply cannot return to its bloody past.



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Colombo is the largest transshipment hub for the Indian sub continent traffic in the region and handles around 35% of the total transshipment traffic. Hub port transshipment activity is dominated by the Port of Colombo

Economic diplomacy with India

Guest Column

By Srinath Fernando

Indo-Lanka relations

INDO-LANKA relations have been cordial ever since the two countries gained independence. The most notable act of magnanimity on the part of India was to cede the Island of Katchchathivu to Sri Lanka through an agreement between the two countries.

Relations have intermittently been strained due to domestic ethnic issue having had a military dimension. The relations strained during the 1980s when LTTE had the backing from India for training and logistics.

There have been occasions when India had to meddle in the internal affairs of Sri Lanka and one could well argue that it was due to mismanagement of our own affairs and lack of enthusiasm among Sinhalese leadership to arrive at finding an equitable solution to ethnic conflict in Sri Lanka. Had the leaders shown political pragmatism during the 1980s the situation would not have risen to the level it did.

Relations with India reached the lowest ebb when India brazenly violated Sri Lanka's air space without regard for the territorial integrity of Sri Lanka. This was an unprecedented act of aggression towards a small country. Unfolding events during the latter half of 1980s led to the arrival of the IPKF to patrol peace in Sri Lanka. A decade later the LTTE possessed aircrafts that would have had serious national security implications for India. Indian perception changed dramatically.

Relations were once again upgraded to the highest level by President Mahinda Rajapaksa who had the ability to conduct the war against LTTE with the full support of the Government of India. There was opposition and pressure from various quarters from Tamil Nadu and from overseas yet President Rajapaksa tenaciously held on to his target of annihilating the LTTE, thanks to the excellent diplomatic manoeuvres with the Indian Government.

Successive UNP Governments were in a state of catch-22 as far as a military solution to the ethnic issues was concerned. The UNP Governments in power were of the opinion that if Sri Lanka pushed for a military solution it would repeat the mistake it did during Vadamarachchi Operation.

Had there been a semblance of countenance from Delhi that it would remain passive when the LTTE would be cornered, perhaps UNP too would have pursued a military solution but indications from Delhi were otherwise. What President Rajapaksa achieved was unimaginable and truly it was a patriotic victory. This writer believes that the war victory would not resolve the issue but has to be supplemented by a political solution and a reconciliation process.

Economic diplomacy with India

The issue involving fishing rights of Indian and Sri Lankan fishing communities

must be amicably resolved as this would be a potential point of clash and Government of Sri Lanka should be fully conscious of the possibility of pressure being mounted by the TN Government to create unnecessary diplomatic rows with India.

Fishing rights are in fact an economic matter rather than a territorial matter. The bigger the catch, the bigger the income, and when encroachment takes place, it is Sri Lankan fishermen who are set to lose.

The progress of the Indian economy could be seen from the mammoth strides it has made with regard to promoting Indian domestic industries. India has now become the second largest economy in Asia. It has great potential even to outsmart China.

The intellectual capital of India is yet another untouched industry. The Government of India must consider its potential for enhancing its higher education institutions and must bring the standards on par with international requirements.

Sri Lankans have chosen European, American and Australian educational institutions for higher education. Sri Lankans willing to study abroad could have saved millions of foreign exchange if Indian universities had been developed to attract Sri Lankan and other students from Asia.

India has made massive gains in developing its domestic industries. Sri Lanka has not had any direct economic benefit from India's economic growth. The Government of Sri Lanka must have a holistic approach to developing our export markets to India.

The Comprehensive Economic Partnership Agreement (CEPA) would certainly bring entrepreneurs from both countries one step closer together. There would be greater interaction of business communities from both countries.

There has been tremendous development assistance from India and further assistance should be sought in order to upgrade livestock and other rural economic enhancement measures. This would certainly be a boost to rural economy and help alleviate poverty in the rural areas.

What benefits would accrue to Sri Lanka through CEPA?

Indian Institute of Foreign Trade report says: "The total trade between India and Sri Lanka has increased from mere US\$ 475 million in 1998-99 to around US\$ 700 million in 2000-01 and to hopping US\$ 1.7 billion in 2004-05. It has further increased to US\$ 2.7 billion in 2009. Looking at the success of the FTA both the countries engaged themselves in negotiating a 'Comprehensive Economic Partnership Agreement' (CEPA), which include trade, investment, and technology transfer, etc. The CEPA negotiation has been initiated in 2005 and concluded in July 2008, after 13 rounds of negotiations. CEPA comprise of four objectives; widening and deepening of the existing FTA, establishing an agreement on trade in services, including measures for promotion of investment

FT Quote

“Economic diplomacy between India and Sri Lanka should focus not only CEPA but on the aviation and shipping business as well. These are the real issues that would undermine the economy of Sri Lanka. It is high time the Government had joint consultative meetings with Indian counterparts and policy options might have to be considered in order to safeguard the interests of our ports, airports and air carriers”

in each other's countries and enhancing economic cooperation.”

There has been a fear that Indian professional would be able to practice in Sri Lanka and it would be fallacious to think of practicalities of such an engagement. There seems to be unfounded fears among certain sections of the business community. It would perhaps be ideal that CEPA is vetted by an independent panel of experts in parallel to the Inter Agency Committee approved by the Cabinet, so that any misgivings about its efficacy could be allayed.

It would be interesting to see how China would perceive and react to this agreement given ongoing diplomatic battle over a piece land in Colombo. There are of course political imperatives surrounding any decisions but at end of the day what matters is our relationship with our closest neighbour.

There are other issues that are relevant to our economy. The Indian Government has comprehensive plans to upgrade its sea ports and Sri Lanka has already lost reve-

nue from transshipment business. Indian also had promulgated Civil Aviation Policy document. Could there be a greater discussion on the shipping and aviation trade so that Sri Lankan ports and airports would be able to derive some benefit from the Indian expansion plans.

In 2010, the International Finance Corporation (IFC) submitted a report to the Government of Kerala on strategic options on the Vizhinjam Port and IFC has stated that "Colombo is the largest transshipment hub for the Indian sub continent traffic in the region and handles around 35% of the total transshipment traffic. Hub port transshipment activity is dominated by the Port of Colombo."

Economic diplomacy between the two countries should focus not only CEPA but on the aviation and shipping business as well. The Hindu newspaper reported that "the existing restrictions for foreign vessels to connect Indian ports with transshipment cargo are seen as a hindrance by vessel operators to use the potential in Kochi Port. Highly placed sources in the port told the Hindu these vessel operators could not take a sudden decision to shift its base from Colombo to Kochi on account of the cabotage restrictions in Indian ports. If the law is relaxed, they may slowly skip Colombo and will opt Kochi for transshipment purpose, the sources said adding, at present 70 per cent of the Indian cargo is transhipped through Colombo Port."

These are the real issues that would undermine the economy of Sri Lanka. There would be restrictions on Sri Lankan domestic air carriers freely entering the Indian destinations. It is high time the Government had joint consultative meetings with Indian counterparts and policy options might have to be considered in order to safeguard the interests of our ports, airports and air carriers.

(This writer is a freelance journalist and a political lobbying and government affairs consultant.)